IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (P.I.L.) NO. 176 OF 2004.

Sanjaykumar Damodar Surve. ... Petitioner
Versus.
State of Maharashtra and others. ... Respondents

Shri Harvinder Toor i/by Shri Kishor Shriyaya for the Petitioner.

Shri Ravi Kadam, Advocate General, for Respondents Nos.1 and 6.

Shri G.S.Hegde with Shri C.M.Lokesh for Respondent No.2.

Shri Tripathi for Respondent No.3.

Shri Lentin i/by Shri Akhilesh S.Dubey for Respondents Nos.4, 7 and 8.

CORAM : H.L.GOKHALE, &
ABHAY S. OKA, JJ.

DATED : 22nd FEBRUARY, 2006.

P.C.:

1. Heard Shri Toor in support of this petition. Shri Kadam, Advocate General appears for the 1st Respondent. Shri Hegde appears for Respondent No.2. Shri Tiwari appears for Respondent No.3. Shri Lentin appears for Respondents Nos.4, 7 and 8.

2. This petition is filed challenging allotment of Plot No.20, Sector 60, Nerul, Navi Mumbai, to Respondent No.4 which is subsequently now passed on to Respondents Nos.7 and 8. The original plot No.20 is now split into two parts and numbered as Plot Nos.20 and 21. The grievance of the Petitioner is that there has been

underpricing when these plots were allotted, apart from various other irregularities.

3. What has happened is that after filing of the petition, the 2nd Respondent has accepted the report made by the State Government under the Additional Chief Secretary Shri Shankaran. The 2nd Respondent has already given notices for cancellation of the allotment as directed by the 1st Respondent. In view of these notices to Respondents Nos.3 and 4, Shri Toor appearing for the Petitioner submits that he is satisfied with the course of action taken by Respondents Nos.1 and 2. Shri Hegde, however, states that Respondent No.2 desires to give fresh notices giving further particulars if required for the same purpose. We direct that the notices be given to Respondents Nos.7 and 8 also inasmuch as they are the parties who are now in possession of the concerned plots of land. Shri Hegde states that the notices will be issued within two weeks from today. Shri Lentin appearing for Respondents Nos.4, 7 and 8 states that reply will be filed within one week thereafter. He states that his clients are anxious that the decision be taken at the earliest. According to him, there was no underpricing when the plots were allotted and there is no need for any revision or cancellation. In any case the Respondents concerned may file their reply to CIDCO on receiving the notice. We direct the Respondent No.2 to decide notices

within 8 weeks from the receipt of the replies from the parties concerned. This will be so because appropriate hearing after inspection etc. will have to be given to the parties concerned. Shri Toor is satisfied with this order and does not press for the petition any further.

4. During the course of these proceedings, a statement made by Shri Lentin was recorded, namely that Respondent No.4 will not create any third party rights nor any further construction will be carried on. Shri Lentin wants to be relieved of this statement. We relieve him of this statement. Respondents Nos.7 and 8 have filed an affidavit stating that they are agreeable to pay price difference in the event the allotment was to be regularised. We are however told that it will be so only in the event of regularisation and they want to be relieved of any restriction in the meanwhile. It is not possible to accept their submission. We therefore grant injunction of this Court restraining Respondents Nos.3, 4, 7 and 8 from creating any third party rights or from proceedings with any further construction on the concerned plots till the determination of the notices. It will be for the appropriate authority to consider all the aspects. It will also be for them to examine as to whether the allotment should be reglarised on appropriate revision in the price which was initially arrived at which will be after considering various factors including Shankaran Committee's report.

5. It will be open to Respondents Nos.3, 4, 7 and 8 to offer appropriate revision in price while replying to the notices which they may examine and offer without prejudice to their principal contention that the price fixed earlier was correct. In the event of any such offer being made, it will be open for the CIDCO and the Government to consider whether the allotment should be regularised on payment of such enhanced price.

6. Petition stands disposed of.

(H.L.Gokhale, J.)

(Abhay S.Oka, J.)